

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA
JOHNSTOWN DIVISION**

ANTHONY J. ZANGHI, *et al.*,
Plaintiffs,
v.
FREIGHTCAR AMERICA, INC., *et al.*,
Defendants.

No. 3:13-CV-00146
Hon. Kim R. Gibson

MOTION FOR RECONSIDERATION

FreightCar America, Inc. (“FreightCar”), hereby moves this Court to reconsider its Memorandum Opinion and Order of Court denying FreightCar’s motion for summary judgment. Reconsideration is warranted to address two aspects of the Court’s ruling related to the nature and duration of the parties’ obligations under Side Letter 22. First, contrary to the Court’s ruling, the express language of Side Letter 22 does not support the Court’s finding that FreightCar assumed an ongoing obligation to provide “mirrored benefits.” Instead, FreightCar and the USW agreed that, within 60 days of FreightCar’s closing on Bethlehem’s Johnstown Facility, they would “*create*” employee benefit plans that would “*replace*” the Bethlehem plans. Second, even if Side Letter 22 did place continuing or ongoing obligations on the parties, these obligations ceased no later than 1997. Although other side letters were incorporated into the 1997 collective bargaining agreement, Side Letter 22 was not. By holding that Side Letter 22 imposed continuing obligations, this Court failed to give effect to the merger and zipper clauses in the 1997 CBA.

WHEREFORE, FreightCar America, Inc., respectfully requests that this Court reconsider its order denying FreightCar's motion for summary judgment.

Dated: April 28, 2015

Respectfully submitted,

/s/ *Samuel P. Myler*

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who have consented to electronic service have been served with a copy of the foregoing document via the Court's CM/ECF system this 28th day of April, 2015. Any other counsel of record will be served by facsimile transmission and/or first class mail.

/s/ Samuel P. Myler

Samuel P. Myler